

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

LEANDRO ESTRADA,

Petitioner,

VS.

RICK THALER, DIRECTOR TDCJ-CID,

Respondent.

§
§
§
§
§
§
§
§

CIVIL ACTION NO. C-11-275

**ORDER ADOPTING
MEMORANDUM AND RECOMMENDATION AND
GRANTING RESPONDENT'S MOTION FOR SUMMARY JUDGMENT**

Pending before the Court is Respondent's Motion for Summary Judgment (D.E. 13). On December 2, 2011, United States Magistrate Judge Brian L. Owsley issued a Memorandum and Recommendation (D.E. 15), recommending that Defendant's Motion for Summary Judgment be granted. Petitioner timely filed his Objections (D.E. 16) on December 13, 2011.

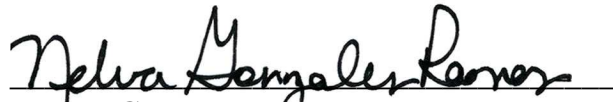
The Memorandum and Recommendation addresses two main issues: (1) the Petitioner's exhaustion of state law remedies; and (2) limitations. The Magistrate Judge found that the Petitioner had sufficiently exhausted his state law remedies such that the Motion would not be granted—and the Petition would not be dismissed—on that particular basis. Petitioner, apparently misconstruing that ruling, filed his objections only challenging the exhaustion basis on which he prevailed. He requested additional time to exhaust state law remedies. While Petitioner may certainly proceed with any state law

remedies he may have available, such efforts will not change the result in this federal case.

The basis for granting the Motion and dismissing the Petition, according to the Magistrate Judge, was that the Petition was not filed timely under the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), 28 U.S.C. § 2244. Petitioner did not state any objections to the Memorandum and Recommendation with respect to this dispositive issue.

Having reviewed the findings of fact, conclusions of law, and recommendations set forth in the Magistrate Judge's Memorandum and Recommendation, as well as Petitioner's Objections, and all other relevant documents in the record, and having made a *de novo* disposition of the portions of the Magistrate Judge's Memorandum and Recommendation to which objections were specifically directed, the Court **OVERRULES** Plaintiff's Objections and **ADOPTS** as its own the findings and conclusions of the Magistrate Judge (D.E. 15). Accordingly, Respondent's Motion for Summary Judgment (D.E. 13) is **GRANTED** and this action is **DISMISSED WITH PREJUDICE**.

ORDERED this 5th day of January, 2012.


NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE